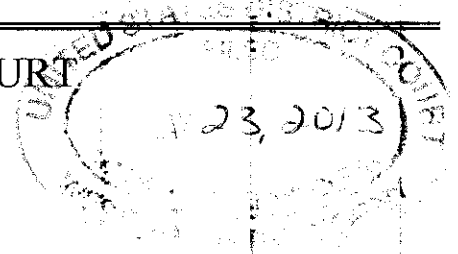


## UNITED STATES DISTRICT COURT

for the

Western District of New York



United States of America )

v. )

Case No. 13-M-63

DANIEL JUDE WITEK a/k/a DANIEL  
MOUNTBATTEN-WITECK a/k/a WALTER PAYNE )*Defendant*

## CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date of 05/18/2013 in the county of Erie in the Western District of  
New York, the defendant violated 18 U. S. C. § 1341, an offense described as follows:

The defendant devised or intended to devise a scheme or artifice to defraud, or obtain money by means of false or fraudulent pretenses, representations or promises and for the purpose of executing the scheme or artifice or attempting to do so, knowingly caused to be delivered by mail or by any private or commercial interstate carrier, the following matter: A letter outlining the terms of payment and stolen letters.

This criminal complaint is based on these facts:

☒ Continued on the attached sheet.

*Complainant's signature*

Vanessa M. Paris, SA, Fed. Bureau of Investigation

*Printed name and title*

Sworn to before me and signed in my presence.

Date:

May 23, 2013

City and state:

  
Buffalo, N.Y.


*Judge's signature*

H. Kenneth Schroeder, Jr. U.S. Magistrate Judge

*Printed name and title*

AFFIDAVIT

I, Vanessa M. Paris, being first duly sworn, hereby depose and state as follows:

1. I am a Special Agent with the FBI, and have been since September 2008. During that time, I have participated in investigations involving violent crime, drug trafficking and organized crime matters, including three long-term narcotics investigations that utilized the court-authorized interception of wire and oral communications. In addition, I have had the opportunity to work with several other FBI agents and other law enforcement agents and officers of varying experience levels, who have also investigated mail fraud, wire fraud, interstate transportation of stolen property and other violations in the Western District of New York. As a result of my experience, I am familiar with the methods utilized by individuals to acquire and traffic stolen goods. My investigative experience detailed herein, and the experience of other law enforcement agents who are participating in this investigation, serve as the basis for the opinions and conclusions set forth herein.

2. The facts in this affidavit come from my personal observations, my training and experience, and information

obtained from other agents and witnesses. This affidavit is intended to show merely that there is sufficient probable cause for the issuance of a Criminal Complaint and Arrest Warrant. As such, this Affidavit does not set forth all of my knowledge about this matter.

3. Based on the facts set forth in this affidavit, there is probable cause to believe that DANIEL JUDE WITEK also known as (a/k/a) DANIEL MOUNTBATTEN-WITECK a/k/a WALTER PAYNE (hereinafter referred to as "PAYNE") has committed the violation of Title 18, United States Code Section 1341.

#### PROBABLE CAUSE

4. On or about May 13, 2013, David Lowenherz, President of Lion Heart Autographs, New York, New York was contacted by a male identifying himself as "WALTER PAYNE". "PAYNE" represented that he had certain items to sell Lowenherz and subsequently faxed Lowenherz numerous copies of historical letters/postcards written to Anson Conger Goodyear and others. Each faxed communication was sent from fax number 716-884-3070 which belongs to the BEST WESTERN, 510 Delaware Avenue, Buffalo, New York. "PAYNE" redacted the names in the faxed letters/postcards so that Lowenherz could not fully identify them. Lowenherz

contacted "PAYNE" on telephone number 716-228-4242 and agreed to purchase five of the letters/postcards from "PAYNE" in exchange for \$2,750.00 US Currency. "PAYNE" fraudulently told Lowenherz that the letters were passed down to him from his family. On or about May 18, 2013, "PAYNE" sent Lowenherz via FedEx Overnight Service, four original letters and one postcard, photocopies of additional letters, and a hand written letter discussing the terms of the exchange. In the letter, "PAYNE" requested that Lowenherz deposit the payment for the letters directly into a Bank of America Account in the name of J.W. Payne.

5. On the morning of Tuesday, May 21, 2013, Lowenherz emailed Cynthia Van Ness, the Director of Library and Archives of the Buffalo History Museum with a compiled list of approximately forty-two letters/postcards PAYNE offered to sell to Lowenherz in order to ensure the origin of the communications were legitimate. The staff at the Buffalo History Museum began conducting an inventory of the letters/communications in the museum's A. Conger Goodyear Papers Collection (hereinafter "the Goodyear Collection"). To date, the staff has discovered that over thirty of the forty-two listed letters/postcards were missing from the Goodyear Collection and did belong to the

Buffalo History Museum<sup>1</sup>. Law enforcement was notified of the situation by the Buffalo History Museum. After learning that the documents belonged to the Buffalo History Museum, Lowenherz delayed contact with "PAYNE" and did not deposit any money.

6. After communicating with Lowenherz, Melissa Brown, Executive Director of the Buffalo History Museum, received several voicemails from an individual known to Brown as DANIEL MOUNTBATTEN-WITECK a/k/a DANIEL WITEK who utilized cellular telephone number 716-553-9401. WITEK was known to Brown as a volunteer at the Buffalo History Museum for the last few months<sup>2</sup>. WITEK initially was interested in the photo records but more recently was reviewing and working with the Goodyear Collection. WITEK is frequently in the company of a male known to Brown as JEFFREY PAYNE while at the museum<sup>3</sup>. At approximately 4:45 p.m., WITEK arrived at the museum and requested to speak with Brown. During the meeting with Brown and Van Ness, WITEK repeatedly told Brown and Van Ness that WITEK was contacted by a dealer in New York City because WITEK was selling copies of letters. WITEK stated that he would never take anything from the museum

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<sup>1</sup> The inventory at the Buffalo History Museum is currently ongoing.

<sup>2</sup> WITEK is also reported to be associated with the Swan Library, Albion, New York, the Barker Free Library, Barker, New York, the Middleport Free Library, Middleport, New York, and the Rare Book Collection at the Central Branch, Buffalo and Erie County Public Library.

<sup>3</sup> The Buffalo History Museum utilizes Library Researcher Register sign in sheets to memorialize the individuals who access the collections. The staff of the museum reported numerous dates during which WITEK and PAYNE visit the museum together to review the Goodyear Collection.

and wanted to let Brown and Van Ness know that they may be contacted by the dealer. WITEK also stated that the museum did not have a complete list of the inventory and could not know if something was missing. WITEK then departed from the museum<sup>4</sup>.

7. At approximately 8:42 p.m., "PAYNE" sent a fax from number 716-884-3070, BEST WESTERN, 510 Delaware Avenue, Buffalo, New York to Lowenherz. The fax contained a handwritten letter demanding that Lowenherz either deposit money into his bank account or return the "property" to "PAYNE" via FedEx. On Wednesday, May 22, 2013, Lowenherz reported receiving several voicemail messages from "PAYNE" requesting the same demands as stated in the fax.


8. Melissa Brown, Executive Director of the Buffalo History Museum, stated that neither Daniel Mountbatlen-Witeck, Daniel Witek or Walter Payne have ever had authority to sell any items belonging to the Buffalo History Museum.

WHEREFORE, based upon the above-mentioned, there is probable cause to believe that Daniel Mountbatlen-Witeck a/k/a Daniel Witek a/k/a Walter Payne has violated Title 18, United

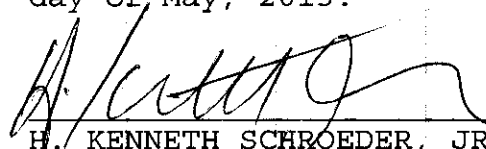
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<sup>4</sup> A portion of this meeting was recorded by a museum staff member on a cellular telephone.

States Code, Section 1341 [Frauds and Swindles] and respectfully request the Criminal Complaint and corresponding warrant be issued.

  
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VANESSA M. PARIS, Special Agent  
Federal Bureau of Investigation

Sworn to before me this 23rd  
day of May, 2013.

  
\_\_\_\_\_  
H. KENNETH SCHROEDER, JR.  
United States Magistrate Judge